UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/693,369	10/20/2000	Joel E. Short	42253/205	8237

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EXAMINER
CALLAHAN, PAUL E

ART UNIT	PAPER NUMBER
2137	

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Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/693,369	SHORT, JOEL E.
	Examiner	Art Unit	
	Paul Callahan	2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>02 November 2005</u>.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-4,6-10,12-14 and 16-23</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-4,6-10,12-14,16,17 and 21-23</u> is/are rejected.

7)☒ Claim(s) <u>18-20</u> is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

U.S. Patent and Trademark Office

PTOL-326 (Rev. 7-05)   Office Action Summary   Part of Paper No./Mail Date 02210202

DETAILED ACTION

1.   Claims 1-4, 6-10, 12-14, and 16-20 were pending in the Application at the time of

the previous Office Action. New claims 21-23 have been added via the amendment of

11-02-05. Therefore, claims 1-4, 6-10, 12-14, and 16-23 are pending in the application

and have been examined.

Response to Arguments

2.   Applicant's arguments filed 11-02-05 have been fully considered but they are not

persuasive.

The Applicant argues in traverse of the rejections of the claims that Malkin fails to

teach subscriber specific network specific service tunnel requirements where the

network service tunneling requirements include information for identifying tunneling

requirements for each of those services. Yet Bots et al. was used to teach these

features at page 11, lines 1-19, and page 12 lines 1-20.

The Applicant argues that Malkin fails to teach a subscriber profile that contains

subscriber specific tunneling requirements. The Examiner reiterates that Malkin does

teach such a feature at Sec. 3 Operational Algorithm. Such is taught; for example,

where Malkin's "provisioned information" includes such information as an endpoint

identifier, encryption key used in authentication, max no. of users, etc.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 1-4, 6-10, 12-14, 16, 17, and 21-23 are rejected under 35 U.S.C. 103(a)

as being obvious in view of Malkin, "Dial-in Virtual Private Networks Using Layer 3

Tunneling", IEEE, 11/1997, and Bots et al., International Application PCT/US98/12229,

12 June 1997.

As for claims 1, 6, and 7, Malkin teaches a method for dynamically creating a

tunnel in a communications network to provide subscribers host access to a network

service (Introduction, p.555), comprising: storing a subscriber profile in a network

database (Sec. 3. Operational Algorithm, page 556, paragraph 5), wherein the

subscriber profile includes subscriber-specific network service tunneling requirements

(Sec. 3. Operational Algorithm, page 556, paragraphs 4, 5: "FQDN", Fig. 2 step 5);

receiving at a network device a first subscriber data packet associated with a first

network service (Sec. 3. Operational Algorithm, page 556, paragraphs 4,5); accessing

the subscriber profile to determine if the first network service has a subscriber-specific

tunneling requirement; and creating a first tunnel if a determination is made that the

subscriber profile requires a first network service tunnel (Sec. 3. Operational Algorithm

page 556, fig. 4 steps 4, 5), wherein the first tunnel has a first end point at the network device and a second end point at the first network service (Sec. 3 Operational Algorithm, page 556, paragraphs 4,5). Malkin does not teach a subscriber profile that includes subscriber specific network service tunneling requirements for a plurality of network services that are available to the subscriber, the network service tunneling requirements including information for identifying tunnel requirements for each of those services. However Bots does teach these However Bots does teach these features at page 11, lines 1-19, and page 12 lines 1-20. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate these features into the system of Malkin. It would have been desirable to do so since the ability to handle multiple subscribers with differing tunneling requirements would increase the utility of the system.

As for claims 21 and 22, Malkin does not teach receiving at the network device a second subscriber data packet associated with a second network device, accessing the subscriber profile to determine if the second network service has a subscriber-specific tunneling requirement, and creating a second tunnel if a determination is made that the subscriber profile requires a second network service tunnel, wherein the second tunnel has a first end point at the network device and a second endpoint at the second network service and coexists simultaneously with the first tunnel. However Bots does teach these features at page 11, lines 1-19, and page 12 lines 1-20. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate

these features into the system of Malkin. It would have been desirable to do so since

the ability to handle multiple subscribers with differing tunneling requirements would

increase the utility of the system.

As for claim 2, Malkin teaches the method of Claim 1, wherein storing a

subscriber profile comprises storing at least one parameter chosen from the group

consisting of the network access identifier, a user/subscriber name and a

user/subscriber password (Sec. 3 Operational Algorithm, page 556 bottom, fig. 2 step

5).

As for claim 3, Malkin teaches the method of Claim 1, further comprising

determining if a first tunnel between the network device and the first network service

pre-exists prior to creating the tunnel between the network device and the first network

service (Sec. 3 Operational Algorithm, page 556, paragraph 5, fig. 2 step 4).

As for claim 4, Malkin teaches the method of Claim 1, wherein more than one

subscriber accessing the communication network through the network device can

simultaneously transmit data packets to the first network service via the first tunnel

(Sec. 6.2 Maximum User Count, page 559, 2nd paragraph).

Claims 9 and 10 represent the apparatus carrying out the method of claims 1-3,

and are rejected on the same basis as those claims.

As for claims 8 and 12, Malkin teaches a network device that dynamically creates

a tunnel in a communications network to provide a subscriber host access to a

destination network (Sec. 1: Introduction pages 555-556), comprising: a processor that

receives from a subscriber a data packet associated with a network service (Sec. 3:

Operational Algorithm, page 556, paragraphs 2-4); a database accessed by the

processor that stores a subscriber profile that defines the tunnel requirements for the

network service (Sec. 3: Operational Algorithm, page 556, paragraphs 2-4); and a

tunnel management module implemented by the processor that communicates with the

database to determine if the subscriber requires a tunnel for access to the network

service and, if a determination is made that the tunnel is required, the tunnel

management module creates a tunnel access session between the network device and

the network service (Sec. 3: Operational Algorithm, page 556, paragraphs 2-4, fig. 4

steps 4, 5). Malkin does not teach a tunnel management module that is capable of

creating more than one tunnel access session for simultaneous access session for

simultaneous subscriber access to more than one network service where more than one

subscriber accessing the communications network through the network device can

simultaneously transmit data packets to the first network service via the first tunnel and

the second network service via the second tunnel. However Bots does teach these

features at page 11, lines 1-19, and page 12 lines 1-20. Therefore it would have been

obvious to one of ordinary skill in the art at the time of the invention to incorporate these

features into the system of Malkin. It would have been desirable to do so since the

ability to handle multiple subscribers with differing tunneling requirements would increase the utility of the system

As for claim 13, Malkin teaches the network device of Claim 12, further comprising a session management module implemented by the processor that communicates with the database to manage the tunnel access session provided by the network device (Sec. 3: Operational Algorithm, page 557, right-hand column, fig. 2, step 8).

As for claim 14, Malkin teaches the network device of Claim 12, wherein the tunnel management module determines if a tunnel between the network device and the network service pre-exists prior to creating the tunnel between the network device and the network service (Sec. 3: Operational Algorithm, page 556, paragraph 4, fig. 2, steps 4).

As for claim 16, Malkin teaches the network device of Claim 12, wherein the tunnel management module is capable of providing simultaneous access to the tunnel access session to more than one subscriber accessing the communication network through the network device (Sec. 6.2 Maximum User Count, page 559, 2nd paragraph).

As for claim 17, Malkin teaches the network device of Claim 16, further comprising a session management module implemented by the processor that

communicates with the database to manage the simultaneous tunnel access session provided to more than one subscriber accessing the communication network through the network device (Sec. 6.2 Maximum User Count, page 559, 2nd paragraph).

As for claim 23, Malkin does not teach a tunnel management module that is capable of creating more than one tunnel access session for simultaneous subscriber access to more than one network service. However Bots does teach these features at page 11, lines 1-19, and page 12 lines 1-20. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate these features into the system of Malkin. It would have been desirable to do so as allowing such subscriber access to multiple network services would increase the utility and hence marketability of the system.

Allowable Subject Matter

5.   Claims 18-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

7.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Paul E. Callahan whose telephone number is (571) 272-

3869. The examiner can normally be reached on M-F from 9 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the Examiner's

supervisor, Emmanuel Moise, can be reached on (571) 272-3865. The fax phone

number for the organization where this application or proceeding is assigned is: (571)

273-8300.

2-18-06   MATTHEW SMITHERS
                                                              PRIMARY EXAMINER
                                                              Art Unit 2137